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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,508	08/09/2001	Dieter Groitzsch	22750/482	9265
26646	7590	07/14/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			WATKINS III, WILLIAM P	
			ART UNIT	PAPER NUMBER
			1772	
DATE MAILED: 07/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,508

Applicant(s)

GROITZSCH ET AL.

Examiner

William P. Watkins III

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-14-05</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (U.S. 4,840,829) in view of Hills (U.S. 5,162,074) and Gillespie et al. (U.S. 5,783,503).

Suzuki et al. teach forming a top sheet of a sanitary article by forming apertures in a non-woven web by the use of water jets (abstract). The web may be between 10 and 50 grams per square meter and have fibers of .5 to 15 denier (col. 3, lines 50-55 and col. 4, lines 1-5) and may be treated with a surface agent (col. 3, lines 50-60). Hills teaches the formation of non woven webs by the use of pie type fibers made of two different polymers that are then separated into micro fibers that may have denier values as low as .1, (col. 7, lines 10-20). Gillespie et al. teach the liberation of pie micro fibers by hydro action as prior art and the greatly increased strength of the webs using micro fibers made of two different

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types of longer chain polymers (abstract col. 1, lines 30-49, col. 6, lines 50-65). The instant invention claims the use of pie type conjugate fibers that are separated by hydro action in webs with apertures formed by hydro jets for use as top sheets in sanitary articles. It would have been obvious to one of ordinary skill in the art to have used the micro fibers of Hills and Gillespie et al. as the web material in the process of Suzuki et al. in order to form a top sheet of good softness and high strength. As the top sheet of the combination is of similar material to that taught in the instant specification it is assumed to have similar strike through and rewet values when used as a top sheet.

3. Applicant's arguments filed 21 April 2005 have been fully considered but they are not persuasive.

The examiner notes that the limitation of the fabric having a surface active agent at 0 to .6% by weight of the web has been amended into the independent claims. Suzuki et al. at col. 3, lines 60-65 teaches that the fabric can be treated or untreated with a surface active agent to increase water repellence. The examiner notes that the instant claimed range includes "0" or no surface active agent, and that the absence of a surface active

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agent or the use of as little as possible is the desired result of the instant invention (page 10, lines 5-10 of the revised specification filed 13 April 2001). The examiner therefore takes the embodiments of Suzuki et al. without surface active agent treatment as meeting the instant claim limitation of 0 to .6 weight percent surface active agent.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WW/ww
July 10, 2005

WILLIAM P. WATKINS III
PRIMARY EXAMINER